IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.9.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.29350 of 2007

Senthilkumar .. Petitioner

vs.

1. The District Collector,
   Perambalur District

2. The Revenue Divisional Officer,
   Udayarpalayam Division,
   Perambalur District .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to order, dated 4.8.2007, made in Na.Ka.A3/4491/07, on the file of the second respondent herein confirmed in order, dated 16.8.2007, made in O.Mu.A.5/4735/07, passed by the second respondent quash the same and to direct the respondents herein to release the bullock cart of the petitioner forthwith.

For petitioner : Mr.G.Vivekanand

For respondents : Mr.A.Arumugam
Additional Government Pleader

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O R D E R

Mr.A.Arumugam, learned Additional Government Pleader takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. Heard the learned counsels appearing for the petitioner as well as for the respondents.

4. It is submitted by the petitioner that he had taken sand from the white river at Udayarpalayam Taluk in Perambalur District by bullock carts, for domestic purpose. The police authorities had seized the bullock carts and forwarded the same to the second respondent. The second respondent, without considering the documents produced by the petitioner and without conducting any enquiry, had passed the order levying a fine of Rs.25,158/-. Thereafter, the petitioner had approached the District Collector of Perambalur District, by filing a petition during the grievance day. The second respondent, by an order, dated 16.8.2007, made in O.Mu.A.5/4735/07, had rejected the petition filed by the petitioner.

5. The only contention of the learned counsel appearing for the petitioner is that the petitioner may be given an opportunity to file an appeal under Rule 36-C of The Tamil Nadu Minor Mineral Concession Rules, 1959, and that the matter be heard on merits, after giving an opportunity to the petitioner.

6. The learned Additional Government Pleader appearing for the respondents has no objection for such an order being passed by this Court.

7. In such circumstances, the impugned order passed by the second respondent, dated 16.8.2007, made in O.Mu.A.5/4735/07, is set aside and the petitioner is permitted to an file appeal before the first respondent, under Rule 36-C of The Tamil Nadu Minor Mineral Concession Rules, 1959, within a period of fifteen days from the date of receipt of a copy of this order. On the filing of the appeal, as stated above, the first respondent is directed to dispose of the same, within a period of four weeks thereafter.

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With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

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Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The District Collector,
   Perambalur District

2. The Revenue Divisional Officer,
   Udayarpalayam Division,
   Perambalur District

+1 cc to M/s.G.Vivekanand, Advocate Sr.No.56405.

+1 cc to Government pleader Sr.No.56184.

AD(CO)
dcp/18.9

W.P.No.29350 of 2007

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